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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 13 June 2017 from the Permanent Mission of India to the United Nations addressed to the Chair of the Committee

The Permanent Mission of India to the United Nations in New York presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to submit herewith updated information on India's implementation of resolutions 1540 (2004), 1977 (2011) and 2325 (2016) (see annex).

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Annex to the note verbale dated 13 June 2017 from the Permanent Mission of India to the United Nations addressed to the Chair of the Committee

Implementation of Security Council resolutions 1540 (2004), 1977 (2011) and 2325 (2016)

The proliferation of weapons of mass destruction and non-State actors gaining access to advanced technologies that can contribute to weapons of mass destruction programmes and their delivery systems remains one of the biggest threats to international peace and security. The world today faces a greater risk of terrorists and proliferators acquiring sensitive military and dual-use products, materials and technologies for illicit purposes, at a time when global supply chains are increasingly interconnected.

Preventing access to weapons of mass destruction and their means of delivery to non-State actors is long-standing national policy of the Government of India. As a country with advanced nuclear technologies, India is fully conscious of the responsibilities that come with the possession of such technologies and is committed towards strengthening national as well as global non-proliferation efforts. In accordance with this, India has developed a robust domestic law-based system of controls on the export of strategic goods and technologies, including sensitive dual-use equipment and technologies, in order to prevent illicit trade in such items while ensuring facilitation of legitimate trade and secure participation in the global supply chain. Further, India is party to all 13 universal instruments accepted as benchmarks for a State's commitments to combat international terrorism.

India, since the submission of its previous report on the implementation of Security Council resolution 1540 (2004) in May 2013 (S/AC.44/2013/9, annex), has taken significant steps to further strengthen its legislative and regulatory framework for exercising controls so as to eliminate risks relating to sensitive materials and technologies falling into the hands of proliferators, terrorists and non-State actors.

Security Council resolution 1540 (2004) is in line with the General Assembly resolution sponsored by India on measures to prevent terrorists from acquiring weapons of mass destruction, adopted by consensus every year since 2002, most recently in 2016 (resolution 71/38).

A. Strategic trade controls

Details of steps taken by India since its previous report to the Security Council Committee established pursuant to resolution 1540 (2004) in May 2013 are provided below.

1. Multilateral export control regimes

India is committed to maintaining effective national export controls consistent with the highest international standards set by the four multilateral export control regimes, namely, the Nuclear Suppliers Group, the Missile Technology Control Regime, the Wassenaar Arrangement and the Australia Group. India's admission to the Missile Technology Control Regime on 27 June 2016 is recognition of India's resolve. Subsequently, India participated in the plenary meeting of the Regime, held in Busan, Republic of Korea, in October 2016.

India has harmonized its legislative and regulatory framework with the control lists, guidelines and best practices of the Nuclear Suppliers Group, the Wassenaar Arrangement and the Australia Group. The Government of India is closely engaged with the three regimes with a view to membership.

2. Special chemicals, organisms, materials, equipment and technologies

Updating of the special chemicals, organisms, materials, equipment and technologies list

The national export control list, the special chemicals, organisms, materials, equipment and technologies (SCOMET) list, was updated in July 2013, March 2015, April 2016 and most recently in April 2017 to bring it to a par with the following:

(a) 2016 Annex of the Missile Technology Control Regime;

(b) 2016 Guidelines (Parts 1 and 2) of the Nuclear Suppliers Group;

(c) 2016 Munitions List and List of Dual-use Goods and Technologies of the Wassenaar Arrangement;

(d) 2016 Common Control Lists of the Australia Group.

In notification No. 5/2015-2020 dated 24 April 2017, the Directorate General of Foreign Trade notified the updates to SCOMET guidelines, procedures and control lists. The notification consolidates all past revisions and took effect from 1 May 2017. The updated SCOMET list, along with the other updates, are available from http://dgft.gov.in/exim/2000/scomet/2017/scomet2017.htm.

3. Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Implementation Rules, 2016

The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Implementation Rules were notified on 18 June 2016 under the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. The rules explicitly specify the licensing authorities for the purpose of export of items on the SCOMET list and draw a linkage between the SCOMET list, the schedule of prescribed substances, prescribed equipment and technology (notified by the Department of Atomic Energy) and the Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010.

4. Nuclear exports

India announced its formal adherence to the guidelines and annexes of the Nuclear Suppliers Group in September 2008. This was reiterated under International Atomic Energy Agency (IAEA) information circulars INFCIRC/254/Rev.12/Part1/Add.1 and INFCIRC/254/Rev.9/Part2/Add.1 on 9 May 2016. India has completed the harmonization of its legislative and regulatory framework with the control lists, guidelines and best practices of the Nuclear Suppliers Group.

To that effect, the guidelines for nuclear transfers (exports) issued under the Atomic Energy Act, 1962, were updated on 28 April 2016 to reflect the applicable Nuclear Suppliers Group Part 1 Guidelines. Further, the relevant provisions of the Foreign Trade Policy and the Handbook of Procedures issued under the Foreign Trade (Development and Regulation) Act, 1992, mirror the applicable Nuclear Suppliers Group Part 2 Guidelines.

The schedule of prescribed substances, prescribed equipment and technology issued under the Atomic Energy Act, 1962, was updated on 28 April 2016. It is now

harmonized with the annexes to the applicable Nuclear Suppliers Group Part 1 document (trigger list).

Similarly, the SCOMET list was updated on 29 April 2016. Category 0 of SCOMET is harmonized with the annexes to the applicable Nuclear Suppliers Group Part 1 document, while Categories 3 and 4 are now harmonized with the annex to the applicable Nuclear Suppliers Group Part 2 document (dual-use list).

5. Defence exports

Another key highlight of the Directorate General of Foreign Trade notification No. 5/2015-2020 of 24 April 2017 is the population of SCOMET Category 6 with a munitions list. Pursuant to this change in SCOMET, which came into force on 1 May 2017, the Department of Defence Production of the Ministry of Defence issued a revised standard operating procedure for regulating the export of munitions on 15 May 2017, available from http://ddpmod.gov.in/.

6. Changes to the Foreign Trade Policy, 2015-2020

Amendment to paragraph 2.17 of the Foreign Trade Policy, 2015-2020: paragraph 2.17, on imports and exports to the Democratic People's Republic of Korea, has been updated to account for current Security Council resolutions concerning the Democratic People's Republic of Korea up to resolution 2321 (2016) of 30 November 2016. The Ministry of External Affairs issued a non-proliferation order to enable the implementation of all of the relevant Security Council resolutions related to the Democratic People's Republic of Korea. The order was published in the Gazette of India on 15 May 2017.

7. Changes to the Handbook of Procedures, 2015-2020

The Directorate General of Foreign Trade issued public notice No. 4/2015-2020 dated 24 April 2017 regarding procedural amendments with regard to SCOMET items. The important provisions are as follows:

(a) Amendment to paragraph 2.72 of the Handbook of Procedures: a new paragraph 2.72 (b), providing provisions for catch-all control to regulate the export of items not covered by SCOMET but that may have weapons of mass destruction or military end use;

(b) Amendment to paragraph 2.73 of the Handbook of Procedures: a new paragraph 2.73 (c), providing for "maintenance of records" by SCOMET authorization holders;

(c) Amendment to paragraph 2.74 (I) (f) of the Handbook of Procedures: provides reference to India's adherence to control lists and guidelines of the four multilateral export control regimes, including the Sensitive List and Very Sensitive List of the Wassenaar Arrangement;

(d) Amendment to paragraph 2.74 (V) of the Handbook of Procedures: clarifies on licensing jurisdiction for certain specific entries of Category 0, 6 and 8 items of the SCOMET list;

(e) Amendment to paragraph 2.81 of the Handbook of Procedures: provides revised procedure for the export of SCOMET Category 6 items;

(f) Amendment to paragraph 2.82 of the Handbook of Procedures: provides for licence consideration process within a 30-day period;

(g) Amendment to appendix 2S to the Handbook of Procedures: amends formats for the end use cum end user certificate. Specific end use cum end user

certificate formats have been introduced for chemicals and export for stock and sale purposes.

8. Trade facilitation measures

Online system: an online application system for the grant of an export authorization has been in place since 2015 with a view to reducing the timelines for issuance of authorizations and for ease of doing business.

Specific facilitation measures announced in April 2017 are as follows:

(a) The time for processing SCOMET applications is being brought down further from 45 days to 30 days (para. 2.82 of the Handbook of Procedures, as amended vide public notice No. 4/2015-2020, dated 24 April 2017);

(b) For chemicals covered in the new Category 1D of SCOMET, prior authorization will not be required if the export is to 41 notified countries.

9. Outreach

In line with India's outreach policy, "Niryat Bandhu", outlined in paragraph 1.08 of the Foreign Trade Policy, 2015-2020, and the procedure for outreach programmes on the SCOMET export control system, outlined in paragraph 2.77 of the Handbook of Procedures, the Government, in association with trade and industry associations and research institutions, has organized a series of outreach events for Indian industry across the country covering the nuclear, chemical, defence, aerospace, biotechnology and information technology sectors. The outreach activities to industry are being conducted with a view to enhancing the understanding of the strategic trade controls and the related national and international legal-regulatory-enforcement framework and to prepare industry for India's adherence to the multilateral export control regimes.

Some of the recent outreach events supported by the Government include:

(a) A national export control conference, held on 22 and 23 February 2016 in Bengaluru, Karnataka;

(b) A national workshop for industry awareness on the Wassenaar Arrangement, held on 15 March 2017 in New Delhi;

(c) A national workshop for the SCOMET update: implications for the dual-use and defence industry, held on 19 May 2017 in New Delhi;

(d) An awareness programme for the chemical industry on the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention) and SCOMET, held on 13 June 2017 in Ankleshwar, Gujarat.

10. International cooperation on strategic trade controls

International conferences

India has participated in a number of international conferences on strategic trade controls with a view to exchanging views, national experiences and best practices on the challenging and critical areas of strategic trade controls, including:

(a) The International Export Control Conference, organized by the Government of the United States of America from time to time, held most recently in Prague in November 2016;

(b) The Asian Export Control Seminar, organized by the Government of Japan from time to time, held most recently in Tokyo in February 2017;

(c) The Wiesbaden process, organized by the Government of Germany, held in Wiesbaden, Germany, from time to time, most recently in November 2015.

Assistance

The Government of India has taken note of the requests for assistance put forward by 16 African Union countries to the Committee established pursuant to resolution 1540 (2004). India formally replied in April 2015 to the Committee in respect of an assistance request from Cabo Verde. India possesses the requisite technical expertise in the following areas:

(a) Legislation for implementing export controls/strategic trade controls;

(b) Export control/strategic trade control licensing in an inter-agency setting covering dual-use, nuclear and radiological items, as well as conventional arms, relevant to weapons of mass destruction;

(c) Maintenance and review of export control lists;

(d) Legislation for implementing obligations under the Chemical Weapons Convention and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological and Toxin Weapons Convention);

(e) A national authority for implementing the obligations under the Chemical Weapons Convention (such as declarations and inspections);

(f) The Board of Radiation and Isotope Technology, an agency that provides products and services based on radiation and isotopes and promotes related radiological safety aspects;

(g) Nuclear safety and security culture;

(h) The Global Centre for Nuclear Energy Partnership, a centre of excellence aimed at conducting research, design and development of nuclear systems; organizing training seminars, lectures and workshops on topical issues by Indian and international experts; and promoting global nuclear energy partnership through collaborative research and training programmes;

(i) Training for customs officers through our World Customs Organization-accredited centre of excellence in the National Academy of Customs, Excise and Narcotics near New Delhi.

India remains ready to provide assistance to any interested Member State of the United Nations in any of the above-mentioned fields.

11. Bilateral cooperation

India has bilateral cooperation on high technology and export control matters with Japan, the United States, the United Kingdom of Great Britain and Northern Ireland, Germany, the Russian Federation and Australia, among others. As part of the India-Germany High Technology Partnership Group, an export control workshop for industry was conducted in September 2015 in New Delhi.

B. International treaties and confidence-building measures

1. Chemical Weapons Convention

India has fully implemented the Chemical Weapons Convention under the Chemical Weapons Convention Act, 2000, and is committed to fulfilling its obligation under the Convention, which it believes is a unique, non-discriminatory

disarmament instrument that serves as a model for the elimination of an entire category of weapons of mass destruction. India attaches great importance to the efforts for the universal, effective and non-discriminatory implementation of the Convention. As part of its efforts towards regional cooperation, India held a training programme entitled "Regional basic course in assistance and protection against chemical weapons" from 25 to 29 August 2014 in New Delhi. India contributed $1 million in fiscal year 2014/15 to the Syria Trust Fund for the Destruction of Chemical Weapons set up by the Organization for the Prohibition of Chemical Weapons. India also hosted the annual regional meeting of heads of national authorities on the Chemical Weapons Convention in New Delhi in July 2014.

2. Biological and Toxin Weapons Convention

India has fully implemented the Biological and Toxin Weapons Convention under the Environment Protection Act, 1986, and is committed to fulfilling its obligation under the Convention. India attaches great importance to the efforts for the universal, effective and non-discriminatory implementation of the Convention. As part of India's efforts towards regional cooperation, the Government of India and the Institute for Defence Studies and Analyses co-organized the third regional workshop in preparation for the Eighth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, held in New Delhi on 29 and 30 August 2016. The workshop saw participation from regional States parties and the European Union, as well as representation from various international organizations, including the Office for Disarmament Affairs.

C. The Hague Code of Conduct against Ballistic Missile Proliferation

India joined the Hague Code of Conduct against Ballistic Missile Proliferation on 1 June 2016, signalling India's strong commitment and readiness to further strengthen the global non-proliferation efforts and enhance global and regional peace and security. Pursuant to paragraph 4 (a) of the Code, India submitted its annual declaration for 2016 on 28 March 2017, providing an outline of its policies concerning ballistic missiles and space launch vehicles. India has submitted pre-launch notifications as required under paragraph 4 (a) of the Code.

D. Nuclear security

India has favoured the early conclusion of negotiations at the United Nations on the draft comprehensive convention on international terrorism and supported the universal adherence and implementation of the International Convention for the Suppression of Acts of Nuclear Terrorism and the Convention on the Physical Protection of Nuclear Material and its 2005 Amendment.

Nuclear Security Summit

In its national progress report to the 2014 and 2016 Nuclear Security Summits, India reinforced its full support for the implementation of resolution 1540 (2004), its extension resolution 1977 (2011) and the United Nations Global Counter-Terrorism Strategy. Additionally, India participated in two 2016 gift baskets: India expressed its commitment towards efforts to thwart the illicit trafficking of nuclear and other radioactive materials by participating in the 2016 Statement of Activity and Cooperation to Counter Nuclear Smuggling; and India reinforced its commitment to strengthen global non-proliferation efforts by participating in the

2016 Joint Statement on Sustaining Action to Strengthen the Global Nuclear Security Architecture.

E. Global Initiative to Combat Nuclear Terrorism Implementation and Assessment Group meeting, 2017

The Government of India hosted the 2017 Global Initiative to Combat Nuclear Terrorism Implementation and Assessment Group meeting in New Delhi from 8 to 10 February 2017. The Implementation and Assessment Group meeting was attended by 152 delegates from 41 Global Initiative partner countries and four official observer international organizations, including IAEA, the International Criminal Police Organization (INTERPOL), the European Union and the United Nations Office on Drugs and Crime.

This was the first occasion on which a Global Initiative to Combat Nuclear Terrorism meeting was held in South Asia. The organization of the Implementation and Assessment Group meeting was in keeping with India's commitment and efforts towards strengthening the global nuclear security architecture and thwarting the risk of nuclear and other radioactive substances falling into the hands of terrorist groups and non-State actors.

F. International Atomic Energy Agency

India has consistently supported the central role of IAEA in facilitating national efforts and fostering effective international cooperation to further strengthen nuclear security. Indian experts have been participating in various bodies established by IAEA to draft and review documents related to nuclear security. India has supported the fifth revision of the document on nuclear security recommendations (INFCIRC/225/Rev.5) and included a reference to it in its nuclear cooperation agreements where applicable. India is a participant in the IAEA Incident and Trafficking Database and has voluntarily adopted the provisions of the IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

India participated at the ministerial level in the International Conference on Nuclear Security, organized by IAEA in 2013 and 2016. India made a contribution of $1 million to the IAEA Nuclear Security Fund in 2013 and an identical contribution in 2016. In addition, India made a voluntary contribution of $100,000 in 2015 for the modernization of the IAEA nuclear applications laboratories in Seibersdorf, Austria, under the Renovation of the Nuclear Applications Laboratories project.